

The Supreme Court of South Carolina

Re: Amendment to Rule 43(k), South Carolina Rules of
Civil Procedure

Appellate Case No. 2021-001056

ORDER

Pursuant to Article V, § 4A of the South Carolina Constitution, Rule 43(k) of the South Carolina Rules of Civil Procedure is amended as set forth in the attachment to this order. This amendment shall be submitted to the General Assembly as provided in Article V, § 4A of the South Carolina Constitution.

s/ Donald W. Beatty C.J.

s/ John W. Kittredge J.

s/ Kaye G. Hearn J.

s/ John Cannon Few J.

s/ George C. James, Jr. J.

Columbia, South Carolina
February 1, 2022

Rule 43(k) of the South Carolina Rules of Civil Procedure is amended to provide:

(k) Agreements of Counsel. No agreement between counsel affecting the proceedings in an action shall be binding unless reduced to the form of a consent order or written stipulation signed by counsel and entered in the record, or unless made in open court and noted upon the record, or reduced to writing and signed by the parties and their counsel. However, where the parties reach a settlement agreement during a mediation governed by the South Carolina Court-Annexed Alternative Dispute Resolution Rules and the settlement agreement involves payment by an insurer, the signature of counsel retained by an insurer on behalf of the Defendant(s) or third party administrator shall suffice in place of the signature of the insured party. Settlement agreements shall be handled in accordance with Rule 41.1, SCRPC.

Note to 2022 Amendment

The amendment to Rule 43(k) clarifies the existing practice in cases where the parties have waived the presence of the actual named defendant at a mediation settlement conference and allows for more efficient enforcement of mediated settlements.